



August 22, 2001

Ms. Amanda Crawford
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2001-3723

Dear Ms. Crawford:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 150984.

The Office of the Attorney General (the "attorney general") received a request for copies of any contracts for computer based legal research or information services with West Group, CDB Infotek, ChoicePoint, and Database Technologies, Inc. You indicate that you notified all of the interested third parties of the request for information pursuant to section 552.305 of the Government Code. You further indicate that West Group is the only third party that objected to the release of its information. Therefore, you released the information of the remaining third parties as well as the portion of West Group's information to which West Group did not object. However, you contend that the remainder of West Group's information is excepted from disclosure under section 552.110 of the Government Code. Likewise, you have submitted correspondence from West Group in which it contends that portions of its information are excepted from disclosure under sections 552.104 and 552.110 of the Government Code. We have considered all of the submitted arguments and reviewed the submitted information.

We begin by noting that the submitted information is subject to section 552.022(a)(3) of the Government Code. Section 552.022(a)(3) provides:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

...

(3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body

Gov't Code § 552.022(a)(3). Consequently, the submitted information is subject to public disclosure unless it is confidential under other law. We consider section 552.110 of the Government Code "other law" that makes information confidential for the purpose of section 552.022.

Section 552.110 protects the property interests of private persons by excepting from disclosure two types of information: (1) trade secrets obtained from a person and privileged or confidential by statute or judicial decision and (2) commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. With respect to the commercial and financial information prong of section 552.110, we note that the exception requires a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would result from disclosure. *See* Open Records Decision No. 661 (1999). In its correspondence, West Group contends that the portions of its information relating to "unexercised pricing" are excepted from disclosure under section 552.110 because release of this information would cause substantial competitive harm to West Group. Specifically, West Group contends that the release of the information in question "would reveal West Group's pricing strategy for the contract and for [its] line of business and would allow West Group's competitors to structure their bids in future solicitations with full knowledge of West Group's pricing strategy for the contract." Based on West Group's argument and our review of the submitted information, we agree that the redacted portions of the West Group information relating to unexercised pricing must be withheld under section 552.110(b). Because we find section 552.110(b) applies to the information in question, we need not reach West Group's remaining argument.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/sdk

Ref: ID# 150984

Enc: Submitted documents

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